

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: DA VINCI SURGICAL ROBOT
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:
[ALL ACTIONS]

Lead Case No.: 3:21-cv-03825-VC

**[PROPOSED] ORDER
REGARDING ADMINISTRATIVE
MOTION OF DEFENDANT
INTUITIVE SURGICAL, INC. TO
CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE
SEALED PURSUANT TO CIVIL
LOCAL RULE 79-5(f)**

Judge: Hon. Vince Chhabria

Upon consideration of Defendant Intuitive Surgical Inc.’s Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (“Motion to Consider”), IT IS HEREBY ORDERED that the Clerk shall file the following materials attached to the Motion to Consider in accord with the Court’s rulings indicated below.

Motion to Exclude Testimony of T. Kim Parnell

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
1	Motion to Exclude Testimony of T. Kim Parnell	SIS	<i>Passim</i>	
1	Motion to Exclude Testimony of T. Kim Parnell	Plaintiffs*	<i>Passim</i>	
1	Motion to Exclude Testimony of T. Kim Parnell	Rebotix	<i>Passim</i>	
2	Ex. 1 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Parnell Expert Report in <i>In re: da Vinci Surgical Robot Antitrust Litigation</i>)	Plaintiffs	Document in its entirety	
3	Ex. 2 to Chaput Declaration In Support of Motion to Exclude Testimony of . Kim Parnell (Parnell Expert Rebuttal Report SIS)	SIS	Document in its entirety	
4	Ex. 3 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Parnell Expert Report SIS)	SIS	Document in its entirety	
5	Ex. 4 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Parnell Expert Report Rebotix)	Rebotix	Document in its entirety	
6	Ex. 6 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Parnell Depo Tr. Excerpts)	SIS	Document in its entirety	

* An asterisk indicates that Intuitive has also sought to seal certain portions of this document as set forth in its Administrative Motion to Seal. “Plaintiffs” refers to plaintiffs in this matter, *In Re: da Vinci Surgical Robot Antitrust Litigation*.

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
7	Ex. 8 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe Expert Report in <i>In re: da Vinci Surgical Robot Antitrust Litigation</i>)	SIS*	<i>Passim</i>	
7	Ex. 8 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe Expert Report in <i>In re: da Vinci Surgical Robot Antitrust Litigation</i>)	Restore	Redacted portions of pages 5, 7, 22–23, 42, 65–66, 70–80, 82, 85, 87, 89–90, 92–100	
7	Ex. 8 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe Expert Report in <i>In re: da Vinci Surgical Robot Antitrust Litigation</i>)	Rebotix	Redacted portions of pages 7, 10–11, 18, 22–25, 42–62, 65, 75	
7	Ex. 8 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe Expert Report in <i>In re: da Vinci Surgical Robot Antitrust Litigation</i>)	Benjamin Biomedical	Redacted portions of pages 12–13	
7	Ex. 8 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe Expert Report in <i>In re: da Vinci Surgical Robot Antitrust Litigation</i>)	Carrolton Regional Medical Center	Redacted portions of pages 42–43	
8	Ex. 9 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe SIS Expert Report)	SIS*	<i>Passim</i>	
8	Ex. 9 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe SIS Expert Report)	Rebotix	Redacted portions of pages 8, 10–12, 16, 19, 23–26, 43–63, 66, 76	
8	Ex. 9 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe SIS Expert Report)	Benjamin Biomedical	Redacted portions of page 13	

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
8	Ex. 9 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe SIS Expert Report)	Restore	Redacted portions of pages 5, 8, 23–24, 43–44, 66–67, 71–81	
8	Ex. 9 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Howe SIS Expert Report)	Carrolton Regional Medical Center	Redacted portions of pages 43–44	
9	Ex. 12 to Chaput Declaration In Support of Motion to Exclude Testimony of T. Kim Parnell (Johnson 30b6 Depo Tr. Excerpts)	SIS	Document in its entirety	

Motion to Exclude Testimony of Eugene Rubach

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
10	Motion to Exclude Testimony of Eugene Rubach	Plaintiffs	<i>Passim</i>	
11	Ex. 3 to Lannin Declaration In Support of Motion to Exclude Testimony of Eugene Rubach (Rubach Depo Tr. Excerpts)	Plaintiffs	Document in its entirety	

Motion to Exclude Testimony of Einer Elhauge

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
12	Motion to Exclude Testimony of Einer Elhauge	Rebotix	Redacted portions of pages 4, 9, 10,	
12	Motion to Exclude Testimony of Einer Elhauge	Restore	Redacted portions of pages 4, 10-12	
12	Motion to Exclude Testimony of Einer Elhauge	Plaintiffs	<i>Passim</i>	
13	Ex. 1 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Elhauge Intuitive Report)	Plaintiffs*	Document in its entirety	
14	Ex. 2 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Elhauge Rough Depo Tr.)	Plaintiffs	Document in its entirety	

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
15	Ex. 3 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Elhauge Merits Rebuttal Report)	Plaintiffs	Document in its entirety	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Plaintiffs	Redacted portions of pages 33–34, 47–54, 60, 75–76, 81–83, 87–89, 129–31, 135, 137, 165, 171–72, 178, 186–87	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Alliance Healthcare Partners	Redacted portions of pages 42–44, 140, 163,	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Restore	Redacted portions of pages 39–47, 59, 115, 130, 132, 139–42, 151–52, 164, 173–79, 181–82	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Medivision, Inc.	Redacted portions of pages 40, 42–43, 45–47, 139–41, 175	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Rebotix Repair LLC (“Rebotix”)	Redacted portions of pages 35–43, 46, 59, 76, 115, 130, 132, 139–43, 150–52, 159, 162–64, 174–75, 177–78	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Benjamin Biomedical	Redacted portions of page 35–36, 38, 47, 164	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Florida Healthcare Institute for Gynecologic Oncology	Redacted portions of pages 46, 48–49, 59, 76, 83, 87–88, 131, 135–36, 171–72	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	CMR Surgical	Redacted portions of page 71	

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Evergreen Health	Redacted portions of pages 76, 172–73	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Pullman Regional Hospital	Redacted portions of pages 76, 133, 173	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Conway Regional Medical Center	Redacted portions of page 83	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Todd Pope	Redacted portions of page 96	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Baylor Scott and White Hospital	Redacted portions of page 45, 142	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Renovo Solutions, LLC	Redacted portions of page 142	
16	Ex. 5 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Expert Report of Loren K. Smith)	Crescent City Surgical Center	Redacted portion of page 131, 165	
17	Ex. 7 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Pgs from Ex. 07 - Parnell Expert Report)	Plaintiffs	Document in its entirety	
18	Ex. 8 to Bass Declaration in Support of Motion to Exclude Testimony of Einer Elhauge (Pgs from Foreman Expert Report)	Rebotix	<i>Passim</i>	

Motion to Exclude Testimony of Kimberly Trautman

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
19	Motion to Exclude Testimony of Kimberly Trautman	Plaintiffs	Redacted portions of pages X–X	

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
19	Motion to Exclude Testimony of Kimberly Trautman	Rebotix	<i>Passim</i>	
19	Motion to Exclude Testimony of Kimberly Trautman	Restore	<i>Passim</i>	
19	Motion to Exclude Testimony of Kimberly Trautman	Deutsche Bank	Redacted portions of pages 12, 13	
20	Ex. 1 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Trautman Opening Expert Report)	Plaintiffs	Document in its entirety	
21	Ex. 2 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Foreman Rebuttal Report)	Plaintiffs	Redacted portions of pages 24, 27, 57, 59, 64, 66, 67, 73, 77, 81	
21	Ex. 2 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Foreman Rebuttal Report)	Rebotix	Redacted portions of pages 34–37, 47–48, 53, 64–65, 68–77, 86	
21	Ex. 2 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Foreman Rebuttal Report)	BPI Medical	Redacted portions of 69–70	
21	Ex. 2 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Foreman Rebuttal Report)	Restore	Redacted portions of pages 44–45, 47, 57–58, 64, 70–72, 86	
21	Ex. 2 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Foreman Rebuttal Report)	Alliance Health Partners	Redacted portions of pages 39–42, 47–48	
22	Ex. 3 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX255)	Rebotix	Document in its entirety	
23	Ex. 4 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX256)	Rebotix	Document in its entirety	
24	Ex. 5 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX257)	Rebotix	Document in its entirety	

Attach. No.	Document	Designating Part(ies)	Portions Designated	Ruling
25	Ex. 7 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Trautman Depo Tr. Excerpts)	Plaintiffs	Document in its entirety	
26	Ex. 12 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX258)	Rebotix	Document in its entirety	
27	Ex. 14 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX267)	Rebotix	Document in its entirety	
28	Ex. 15 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX266)	Alliance	Document in its entirety	
29	Ex. 16 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Trautman Reply Report)	Plaintiffs	Document in its entirety	
30	Ex. 17 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (DX268)	Rebotix	Document in its entirety	
31	Ex. 22 to Lazerow Declaration In Support of Motion to Exclude Testimony of Kimberly Trautman (Zafar Depo Tr. Excerpts)	Deutsche Bank	Document in its entirety	

IT IS SO ORDERED:

DATED: _____

HON. VINCE CHHABRIA
United States District Judge